

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6591

BILL NUMBER: HB 1671

NOTE PREPARED: Apr 10, 2003

BILL AMENDED: Apr 9, 2003

SUBJECT: Environmental rulemaking and Permit Application Fee Refunds.

FIRST AUTHOR: Rep. Bottorff

FIRST SPONSOR: Sen. Gard

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill prohibits an applicant from receiving a refund of a permit application fee if the permit application concerned the renewal of a permit. The bill lowers the application fee threshold that identifies certain permit applications that the Department of Environmental Management (IDEM) must act upon with in 60 days, and sets a deadline for action on an application for a renewal. It requires the Office of Environmental Adjudication to notify an environmental rulemaking board (ERB) of certain final orders concerning the ERB. With respect to environmental non-rule policy documents, the bill requires IDEM to make certain information available to the public and an ERB concerning the proposed adoption by the ERB. With respect to proposed rules of an ERB, it requires disclosure of additional information in the rulemaking process, including justification for requirements and restrictions that exceed federal standards, and specifies when IDEM must provide to the ERB the fiscal analysis prepared by the Legislative Services Agency. The bill also requires the Environmental Quality Service Council to study the environmental rulemaking process.

Effective Date: (Revised) Upon passage; July 1, 2003.

Explanation of State Expenditures: (Revised)

Refund of Permit Application Fees for Renewals. HEA 1329-2002 allowed an applicant for a renewal of an administratively extended permit to proceed with remedies available to applicants for new and modifications to a permit, including a refund of the application fee.

IDEM administratively extended a permit if the renewal application was submitted within the specified number of days (as outlined in statute or administrative rules) prior to expiration of the existing permit and

if IDEM failed to issue the renewal prior to the expiration of the existing permit. An applicant must submit a renewal application at least 180 days prior to expiration for wastewater discharge and 120 days (60 for waste tire processing) prior to expiration for solid waste. For hazardous waste, a renewal application must be submitted within the time specified prior to expiration (180 days for a hazardous waste landfill or incinerator). A facility with an administratively extended permit can continue operating under their existing permit.

IDEM has administratively extended permits in the NPDES (wastewater discharge) program, solid waste program, and hazardous waste program.

As of March 28, 2002, approximately 112 administratively extended NPDES permit renewals were pending. The application fee for an NPDES permit renewal is \$50. If all eligible applicants proceeded with the remedy provided by HEA 1329-2002, the revenue loss to the NPDES account of the Environmental Management Permit Operation Fund would be approximately \$5,600.

For solid waste, 29 facilities were operating with administratively extended permits pending. Application fees ranged from \$2,200 to \$15,350, depending on the type of facility. If all eligible applicants requested refunds of their renewal application fees, the revenue loss to the solid waste account of the Environmental Management Permit Operation Fund would be approximately \$269,850.

For hazardous waste, eight facilities had administratively extended permits pending. Application fees ranged from \$17,200 to \$34,000, depending on the type of facility. If all eligible applicants requested refunds of their renewal application fees, the revenue loss to the hazardous waste account of the Environmental Management Permit Operation Fund would be approximately \$175,700.

The proposal allows applicants to submit a draft permit or hire an applicant to submit a draft permit, but removes the provision for refund of renewal application fees. No applicant has requested a refund of the application fee for renewal of an administratively extended permit. However, the “snapshot” of the situation when HEA1329-2002 went into effect suggests a potential expenditure of around \$451,150 (\$5,600 + \$269,850 + \$175,700) for refunds.

The proposal has the potential to save approximately \$451,150 in refunds which would be paid from the Environmental Management Permit Operation Fund. This fund is used for permitting and compliance activities of the respective programs.

Lowering the Application Fee Threshold. The bill lowers the application fee threshold that identifies certain permit applications that the Department of Environmental Management (IDEM) must act upon within 60 days. Lowering the fee threshold from \$100 to \$49 would have minimal if any impact.

Office of Environmental Adjudication. This bill requires the Office of Environmental Adjudication to notify an environmental rulemaking board (ERB) of certain final orders concerning the ERB. The Office should be able to absorb any additional expenses associated with this provision given its existing budget.

ERB Rulemaking. This bill requires IDEM to include in the first notice of a rule under IC 13-14-9-3 a statement as to whether each alternative being considered is imposed under federal law. If the alternative is not imposed by federal law, IDEM must indicate how the alternative differs from federal law. The Department must also indicate any information that it might have regarding the potential fiscal impact of each alternative not imposed under federal law. The bill also requires that with respect to second notices under

IC 13-14-9-4 that IDEM identify each element of the proposed rule that imposes a restriction or requirement on a person that is not imposed under federal law. IDEM must also identify the need to impose the restriction or requirement; provide examples to illustrate that the federal law is inadequate; and provide the fiscal impact and expected benefits. IDEM must describe the availability for public inspection of all materials used to develop the proposed rule. These provisions would require additional staff time; however, the specific impact is indeterminable and would depend on the number and nature of the proposed rules. Expenses for the boards for 2001 were as follows: Air, \$15,487; Water, \$13,687; Solid Waste, \$14,548. Total expenses equaled \$43,722.

Legislative Services Agency. This bill will have no fiscal impact on Legislative Services Agency.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Environmental Management, Legislative Services Agency, Office of Environmental Adjudication, and ERBs

Local Agencies Affected:

Information Sources: IDEM.

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